

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

DENNIS D. CONNORS,
Appellant

v.

D-06-239

BOSTON PUBLIC SCHOOLS,
Respondent

Appellant's Attorney:

Pro Se
Dennis D. Connors
33 Ridgecrest Terrace
Apartment #4
West Roxbury, MA 02132

Respondent's Attorney:

Brendan Greene, Esq.
Boston Public Schools
Office of Labor Relations
26 Court Street
Boston, MA 02108

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

Pursuant to the provisions of G.L. c. 31, § 43, the Appellant, Dennis Connors, appealed the decision of the Respondent, the Boston Public Schools, to terminate him from the position of custodian on December 15, 2004. The instant appeal was received by the Civil Service Commission, with a \$50.00 money order to satisfy the filing fee, on April 20, 2005, more than three months beyond the statutorily-mandated 10-day deadline for filing a disciplinary appeal with the Commission.

The Appellant also filed a separate appeal, with another \$50.00 money order to satisfy the filing fee, regarding the same matter on July 26, 2005, which was docketed by the Commission as Case No. D-05-268. The Commission, acting on a motion filed by the Appointing Authority, dismissed Case No. D-05-268 on the grounds that it was not timely.

In both appeals, the Appellant has consistently maintained that he filed an appeal with the Commission on three occasions – December 20, 2004; April 20, 2005; and July 26, 2005, each time accompanying the appeal with a \$50.00 filing fee. In its Order of Dismissal regarding Case No. D-05-268, regarding the appeal filed on July 26, 2005, the Commission stated, “the Appellant appears confused, at best, on when he first filed his appeal and the only proof the Commission has is that he filed his appeal on July 26, 2005.” The Commission was wrong. As the instant appeal proves, the Appellant did indeed previously file an appeal with the Commission on April 20, 2005. Due to an administrative error, this April 20, 2005 appeal was not properly docketed by the Commission and the oversight was not discovered by the Commission until September 27, 2006.

When the Commission finally discovered the April 20, 2005 appeal, it was docketed under Case No. D-06-239 and scheduled for a pre-hearing conference on December 11, 2006. Further complicating matters, the initial notice of pre-hearing conference regarding the April 20, 2005 appeal listed the Appellant’s name as “Dennis Daniel” instead of “Dennis Connors” (the Appellant’s middle name is Daniel). Upon receiving the pre-hearing notice, counsel for the Appointing Authority informed the Commission that they had no record of an employee named “Dennis Daniel”. Further, in the event

that the appeal actually involved Dennis *Connors*, the City attached the Commission's Order of Dismissal regarding the Appellant's July 26, 2005 appeal. (Docket No. D-05-268)

On December 11, 2006, the Appellant appeared at the offices of the Commission and met with this Commissioner. This Commissioner explained to the Appellant that the Commission did indeed have proof that the Appellant filed two separate appeals with the Commission, one on April 20, 2005 and one on July 26, 2005. However, as the Appellant was notified by the City of his termination on December 15, 2004, both appeals were well beyond the ten-day deadline for filing a disciplinary appeal with the Commission. Cognizant of our own administrative blunder, however, I gave the Appellant ten days to provide proof that he filed an appeal with the Commission on December 20, 2004, as he has consistently asserted.

The Appellant subsequently returned to the offices of the Commission within ten days and provided this Commissioner with copies of a personal check made payable to The City of Boston for \$50.00 dated December 20, 2004. The Appellant also provided customer receipts for two money orders, one dated April 19, 2005 and the other dated July 26, 2005. On the copies of the two money order customer receipts that the Appellant delivered to the Commission, the payee is listed, in handwriting, as "The City of Boston" whereas the copies of the original money orders in the Commission folders is listed, in handwriting, as "Civil Service Commission". While the deciding issue in this appeal is whether or not the Appellant file a timely appeal on December 20, 2004, this discrepancy regarding the previous money orders, at a minimum, raises the Commission's eyebrow

about the copy of a personal check dated December 20, 2004 recently provided to the Commission.

While the Commission, given the confusion created by its own mistake in not properly docketing the April 2005 appeal, was eager to give the Appellant the benefit of the doubt and deem his appeal timely, the documentation presented by the Appellant fails to show that he filed an appeal with the Commission within ten days of being notified of his termination. The only documentation presented by the Appellant to show that he filed an appeal with the Commission within ten days of his December 15, 2004 termination is a copy of a \$50.00 personal check made payable to The City of Boston dated December 20, 2004. The Commission has no record of receiving an appeal from the Appellant on December 20, 2004 and the documentation presented casts serious doubt on the Appellant's assertion that he did file such an appeal, given that the Commission does not accept personal checks, including those made payable to another entity.

As the Appellant's appeal under Docket No. D-06-239 was not timely filed, the appeal is hereby *dismissed*.

If the Commission could turn back time, the Appellant's April 20, 2005 appeal would have been properly docketed and promptly dismissed as it was not timely. As a result of the Commission's administrative error, the Appellant was forced to file a second appeal on July 26, 2005, which was then dismissed as it was not timely. Hence, the Appellant was also required to unnecessarily file a second filing fee of \$50.00. Therefore, the Commission will forthwith file a request with the Executive Office of Administration and

Finance to refund \$50.00 to the Appellant.

Civil Service Commission

Christopher C. Bowman, Commissioner

By vote of the Civil Service Commission (Goldblatt, Chairperson; Bowman, Guerin, Marquis and Taylor, Commissioners) on January 4, 2007.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice:

Dennis D. Connors

Brendan Greene, Esq.